

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

JOHN G. MONTAGUE and his
wife, GWENDOLYN W. MONTAGUE,

PLAINTIFFS,

VS.

NO. _____

PACIFIC INDEMNITY COMPANY
and CHUBB GROUP OF INSURANCE
COMPANIES,

DEFENDANTS.

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NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Pacific Indemnity Company and Chubb Group of Insurance Companies¹ file this Notice of Removal, stating as follows:

1. On June 11, 2009, the Plaintiffs commenced a civil action, which is pending in the Circuit Court of Shelby County, Tennessee, under the style John G. Montague and his wife Gwendolyn W. Montague v. Pacific Indemnity Company and Chubb Group of Insurance Companies, Docket No. CT-002828-09. Plaintiffs' Complaint asserts claims for Breach of Contract, Insurance Bad Faith, Fraud and Violation of the Tennessee

¹ The "Chubb Group of Insurance Companies" is a descriptive phrase, not a legal entity and cannot be sued as such; Chubb Group of Insurance Companies is not licensed or incorporated in any state.

Consumer Protection Act. Plaintiffs' Complaint seeks monetary recovery from the Defendants as follows:

46. Plaintiffs seek judgment for statutory, pre-judgment interest . . . in an amount not less than Fifty Thousand Dollars (\$50,000) . . . and treble damages . . . plus such relief as damages in an amount not less than Five Hundred Thousand Dollars (\$500,000). In addition,

A. Plaintiffs pray for judgment in the amount of a twenty-five percent (25%) penalty pursuant to Tennessee Code Annotated, § 56-7-105(a) plus interest thereon;

B. Plaintiffs pray for damages for economic loss and for lost opportunity costs and damages . . . in an amount to be proven at trial but not less than Five Thousand Dollars (\$5,000);

C. Plaintiffs pray for Treble Damages . . . for all economic, statutory and pecuniary loss in an amount to be proven at trial but not less than Thirty Thousand Dollars (\$30,000);

D. Plaintiffs pray for compensatory damages in an amount to be proven at trial;

E. Plaintiffs pray for punitive damages . . .

* * *

2. The Plaintiffs allege that they are residents of Shelby County, Tennessee (see Complaint at ¶ 1); and according to the Complaint, Plaintiffs were at all times material to this litigation residents of Shelby County, Tennessee.

3. The Plaintiffs served Defendant Pacific Indemnity Company, via the Tennessee Secretary of State, with a copy of the Summons and Complaint by mail on Monday June 15, 2009. (See Affidavit of Darlene Lawrence attached hereto at Exhibit 1.) From the time of the commencement of this action to the present, Defendant Pacific Indemnity Company has been a corporation organized under the laws of the State of Wisconsin with its principal place of business in the State of New Jersey. As stated previously in Footnote 1, the Chubb Group of Insurance Companies is not a legal entity and is not licensed or incorporated in any state.

4. A copy of the Complaint and Summons served upon the Defendants are attached hereto as Exhibit 2. Exhibit 2 consists of all process and pleadings received by the Defendants, no orders having been served upon the Defendants.

5. The subject action is a civil action of which this Court has jurisdiction pursuant to the provisions of 28 U.S.C. § 1441 in that (a) the Plaintiffs and the Defendant Pacific Indemnity Company are citizens of different states; (b) the Defendant Pacific Indemnity Company is not a citizen of the state of Tennessee; (c) the amount in controversy exceeds \$75,000, exclusive of interest and costs; and (d) this action is within the original jurisdiction of the Court pursuant to the

provisions of 28 U.S.C. § 1332.

6. Written notice of the filing of this Notice of Removal is being given to the adverse parties, and a Notice of the filing of this Notice of Removal is being filed with the Clerk of the Circuit Court of Shelby County, Tennessee. A copy of the Notice of Filing of Notice of Removal, excluding the exhibit (this Notice of Removal), is attached hereto as Exhibit 3.

7. By filing this Notice of Removal, the Defendants do not waive, either expressly or implicitly, their right to assert any defenses which the Defendants could have asserted in the Circuit Court of Shelby County, Tennessee.

WHEREFORE, Defendants remove to this Court the above action now pending against them in the Circuit Court of Shelby County, Tennessee.

Respectfully submitted,

BURCH, PORTER & JOHNSON,
a Professional Limited Liability Company

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I have forwarded a copy of the foregoing to John B. Bartels, Esq., 5100 Poplar Avenue, Suite 2100, Memphis, TN 38137, via electronic filing, this 14th day of July, 2009.

s/John R. McCann

John R. McCann